## UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

FAIR ISAAC CORPORATION, a Delaware corporation,	) Case No. 16-cv-1054 (WMW/DTS)
Plaintiff,	) ) )    Jury Trial Demanded
v.	
FEDERAL INSURANCE COMPANY, an Indiana corporation and ACE AMERICAN INSURANCE COMPANY, a Pennsylvania corporation,	) ) ) )
Defendants.	) ) )

## DECLARATION OF HEATHER KLIEBENSTEIN IN SUPPORT OF PLAINTIFF FAIR ISAAC CORPORATION'S MOTION FOR SANCTIONS FOR UNTIMELY SUPPLEMENTATION OF INTERROGATORY ANSWER

- I, Heather Kliebenstein, declare as follows:
- 1. I am a shareholder with Merchant & Gould P.C., and I am one of the attorneys of record for Plaintiff Fair Isaac Corporation in the above captioned matter.
- 2. I make this Declaration on my own information, knowledge, and belief in support of Plaintiff Fair Isaac Corporation's Motion for Sanctions for Untimely Supplementation of Interrogatory Answer.
- 3. Attached hereto as Exhibit 1 is a true and correct copy of Plaintiff Fair Isaac Corporation's Second Set of Interrogatories to Defendant Federal Insurance Company (15-21) served on December 29, 2017.
- 4. Attached hereto as Exhibit 2 is a true and correct copy of Defendant's Answers to Plaintiff's Second Set of Interrogatories (15-21) served on January 30, 2018.

- 5. Attached hereto as Exhibit 3 is a true and correct copy of Federal Insurance Company's Supplemental Answer to Interrogatory No. 17 served on October 26, 2018.
- 6. Federal Insurance Company's Supplemental Answer to Interrogatory No.

  17 (Exhibit 3) provided gross written premium associated with the CSI eXPRESS and

  Automated Renewal Process applications. These account for 2 of the 18 applications that

  FICO claims used Blaze Advisor.
- 7. Attached hereto as Exhibit 4 is a true and correct copy of an excerpt of Federal Insurance Company's Third Supplemental Answer to Plaintiff's Interrogatory No. 16 and Fourth Supplemental Answer to Plaintiff's Interrogatory No. 17 served on February 28, 2019.
- 8. Attached hereto as Exhibit 5 is a true and correct copy of an excerpt of Federal Insurance Company's Fourth Supplemental Answer to Plaintiff's Interrogatory No. 16 and Fifth Supplemental Answer to Plaintiff's Interrogatory No. 17 served on March 2, 2019.
- 9. Attached hereto as Exhibit 6 is a true and correct copy of an excerpt of Federal Insurance Company's Fifth Supplemental Answer to Plaintiff's Interrogatory No. 16 and Sixth Supplemental Answer to Plaintiff's Interrogatory No. 17 served on March 21, 2019.
- 10. Attached hereto as Exhibit 7 is a true and correct copy of an excerpt of Federal Insurance Company's Seventh Supplemental Answer to Plaintiff's Interrogatory No. 17 served on July 16, 2019.

- 11. Attached hereto as Exhibit 8 is a true and correct copy of an excerpt of Defendants' Eighth Supplemental Answer to Plaintiff's Interrogatory No. 17 served on June 23, 2020.
- 12. Attached hereto as Exhibit 9 is a true and correct copy of an excerpt of Expert Report of W. Christopher Bakewell Regarding Damages served on May 17, 2019.
- 13. Attached hereto as Exhibit 10 is a true and correct copy of an excerpt of the Deposition of W. Christopher Bakewell on June 29, 2019.
- 14. Attached hereto as Exhibit 11 is a true and correct copy of an excerpt of the deposition of C. Chase McCarthy on April 23, 2020. This document has been filed UNDER SEAL.
- 15. Attached hereto as Exhibit 12 is a true and correct copy of C. Chase McCarthy's verification of a portion of Federal Insurance Company's Fifth Supplemental Answer to Plaintiff's Interrogatory No. 16 and Sixth Supplemental Answer to Plaintiff's Interrogatory No. 17 signed on April 4, 2019.
- 16. Attached hereto as Exhibit 13 is a true and correct copy of C. Chase McCarthy's verification of a portion of Defendants' Eighth Supplemental Answer to Plaintiff's Interrogatory No. 17 signed on June 22, 2020.
- 17. Attached hereto as Exhibit 14 is a true and correct copy of an excerpt of Defendants' Ninth Supplemental Answer to Plaintiff's Interrogatory No. 17 served on September 29, 2020.

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18. Attached hereto as Exhibit 15 is a true and correct copy of C. Chase

McCarthy's verification of a portion of Defendants' Ninth Supplemental Answer to

Plaintiff's Interrogatory No. 17 signed on September 28, 2020.

19. Attached hereto as Exhibit 16 is a true and correct copy of an excerpt of

Expert Report of Neil J. Zoltowski with Respect to Damages served on April 19, 2019.

20. On October 12, 2020, the parties met and conferred regarding the present

motion. Defendants' represented that the information contained in the Ninth

Supplemental Answer to Interrogatory No. 17 was not produced earlier because it took

numerous employee hours to conduct the calculations and employees were unable to

attend to the calculations due to workloads, absences and turnover.

I declare under the penalty of perjury of the laws of the United States that the

foregoing is true and correct.

Dated: October 28, 2020

/s/ Heather Kliebenstein

Heather Kliebenstein

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